

# Exhibit 22

*United States of America ex rel. Ven-a-Care of the Florida Keys, Inc. v. Boehringer Ingelheim Corp. et al.*

Civil Action No. 07-10248-PBS

Exhibit to the July 24, 2009, Declaration of James J. Fauci  
In Support of Plaintiff's Motion for Partial Summary Judgment and  
In Opposition to the Roxane Defendants' Motion For Partial Summary Judgment

Deposition of Leslie Paoletti

September 20, 2005

Page 1

IN THE SUPERIOR COURT  
FOR THE STATE OF CONNECTICUT  
COMPLEX LITIGATION  
DOCKET AT TOLLAND

STATE OF CONNECTICUT,

Plaintiff,

vs.

Docket No.  
X07 CV-03-0083296-S(CLD)

DEY, INC., ROXANE LABORATORIES, INC.,  
WARRICK PHARMACEUTICALS CORP.,  
SCHERING-PLOUGH CORP. AND  
SCHERING CORPORATION,

Defendants.

~~~~~

DEPOSITION OF  
LESLIE PAOLETTI

September 20, 2005  
10:00 a.m.

1375 East Ninth Street  
One Cleveland Center, 21st Floor  
Cleveland, Ohio

Aimee N. Szinte, a Notary Public

APPEARANCES:

.  
ON BEHALF OF THE PLAINTIFF:  
MURDOCK, GOLDBERG,  
SCHNEIDER & GROH, LPA  
JEFFREY S. GOLDBERG, ESQUIRE  
35 East Seventh Street, Suite 600  
Cincinnati, Ohio 45202-2446  
513-345-8297

.  
ON BEHALF OF THE DEFENDANT  
ROXANE LABORATORIES, INC.:  
VORYS, SATER, SEYMOUR AND PEASE, LLP  
PAUL J. COVAL, ESQUIRE  
52 East Gay Street  
PO Box 1008  
Columbus, Ohio 43216-1008  
614-464-5635

.  
ROBINSON & COLE LLP  
MICHAEL J. KOLOSKY, ESQUIRE  
280 Trumbull Street  
Hartford, Connecticut 06103-3597  
860-275-8249

.

1           A.       I couldn't speak to how it  
2           was established prior to about 1998, and  
3           I'm not aware of anyone who is with the  
4           company who would be able to define  
5           that, but I can tell you how it's  
6           currently done and how we have generally  
7           done it since 98.

8           Q.       That's fine. Why don't you  
9           do that.

10          A.       Generally, for a new product  
11          we will set our AWP at 10 percent less  
12          than the brands' AWP for the comparable  
13          brand product. If we are launching a  
14          new product into an existing market, we  
15          would try to make our AWP comparable to  
16          our generic competitors' AWP.

17          Q.       And you're trying to make it  
18          comparable to your generic competitors  
19          by using the 10 percent less than brand  
20          formula, is that correct?

21          A.       No. I would try to first  
22          establish our AWP by setting it 10  
23          percent less than the brands' AWP. If  
24          that was different from the generic  
25          competitor, the generic competitors on

1 market, I would try to set my AWP  
2 comparable to theirs.

3 Q. And how do you get the  
4 pricing for the generic competitors that  
5 you're trying to compete against?

6 A. We have the ability to access  
7 it through Medi-Span databases.

8 Q. And who access that  
9 information at Roxane?

10 A. Anyone in the marketing  
11 department would have access to that.

12 Q. And do you have access to  
13 that?

14 A. I do.

15 Q. Have you had access since  
16 1998?

17 A. I can't remember if was  
18 specifically 98, but shortly thereafter.

19 Q. Okay. What are the processes  
20 or policies utilized by Roxane since  
21 1998 to address any changes to AWP that  
22 have already been set?

23 A. We have changed AWP as part  
24 of a change to other pricing. In one  
25 case I can recall that we raised the

1 Q. And then Joe Ruhmel.

2 A. No, I don't think -- let me  
3 go back to her. I don't think that  
4 she was a national account manager the  
5 entire time that she's been with the  
6 company.

7 Joe Ruhmel just started in  
8 early 04. And Steve Snyder started  
9 about the same time as Debbie Kutner.  
10 She was probably late 90s, mid to late  
11 90s.

12 Q. Mark Boudreau, when did he  
13 start?

14 A. Late 2003, I think it was.

15 Q. Okay. So that takes care of  
16 the internal aspects of reporting of AWP  
17 because we went through both categories  
18 of the gold sheet and the E-mail.

19 And then moving on to  
20 third-party to which Roxane disseminates  
21 AWP information, you mentioned several,  
22 Red Book, First Data and Medi-Span were  
23 the first three. I'm not going to go  
24 through all of them, but how is AWP  
25 communicated to these various services?

1           A.       Via a letter from me  
2           currently and from Rich Feldman who I  
3           believe his title was executive director  
4           of trade relations.

5           Q.       So there's a signature line  
6           for both of you?

7           A.       There's a signature line for  
8           me now. It's just a letter.

9           Q.       Okay.

10          A.       And prior to me it was Rich.

11          Q.       I see. When did Rich do it?

12          A.       I'm not sure when he started,  
13          but up until the time that he left,  
14          somewhere around 2001 that he left  
15          Roxane.

16          Q.       So pre-2001, he was handling  
17          that but you don't know when he  
18          started, correct?

19          A.       I think part of 2001, as  
20          well, but, right, I don't know when he  
21          started that.

22          Q.       And then did you take over  
23          when Rich left?

24          A.       Yes.

25          Q.       And this letter communication,

1 is that the same for each of the  
2 entities that you listed in your prior  
3 testimony? Is that the mechanism  
4 through which AWP information is  
5 communicated?

6 A. Yes. They also now -- I  
7 can't remember how long it's been, it's  
8 been a couple of years now probably,  
9 that First Data Bank and Medi-Span also  
10 require a form of theirs to be filled  
11 out, so that goes with the letter.

12 Q. And you said that form has  
13 been required since approximately what  
14 time?

15 A. I think it's been a couple of  
16 years.

17 Q. And who fills out that form?

18 A. I do.

19 Q. That's got to be a lot of  
20 fun.

21 Is that form something that  
22 you have to list your entire product  
23 line or do you just list the products  
24 where the AWP is changing?

25 A. We just list the products



1           that are changing or that are new.

2           Q.       Are there instances when you  
3           provide the entire product line AWP's?

4           A.       I provided an entire list  
5           when Gold Standard Media started  
6           requesting the information. When they  
7           initially requested the set up, I did  
8           send them an entire list of it. Prior  
9           to then or actually since, I don't  
10          think there's ever been another case  
11          that I can recall that we sent the  
12          entire list. It's usually been just the  
13          changes.

14          Q.       Generally speaking, how many  
15          of these types of letters do you  
16          generate a year?

17          A.       Well, I would send additional  
18          letters to those same groups if a  
19          product was discontinued but if you're  
20          talking just pricing, that would only go  
21          when we have a product launch or a  
22          change in price which is probably less  
23          than a dozen times a year.

24          Q.       And you report more than just  
25          AWP pricing information to these third

1 parties, is that correct?

2 A. We would notify them of  
3 discontinuations or any changes to an  
4 NDC number or anything like that. Any  
5 significant change to a product.

6 Q. Do you report any other  
7 pricing information other than AWP to  
8 these reporting companies?

9 A. We do not currently and we  
10 haven't since 97, 98.

11 Q. Do you report WAC? I'm  
12 sorry. Have you ever reported WAC to  
13 these companies?

14 A. I believe there was a period  
15 of time when we did report WAC. For  
16 the multisource products, we have not  
17 reported them since, like I said, 97,  
18 98. I believe that the brand products  
19 were still being reported, the WAC and  
20 AWP for the brand products were still  
21 being reported.

22 Q. Okay. The other group that  
23 we mentioned or that you mentioned were  
24 customers.

25 And so how does Roxane

1 communicate AWP information to customers?

2 A. There is an HDMA form which I  
3 forgot to mention before that they  
4 require for a new product that will go  
5 to wholesalers and warehousing chains.  
6 And then on the launch letter to  
7 warehousing chains, wholesalers,  
8 distributors and some direct customers,  
9 they would also get the customer letter.

10 Q. And so the HDMA form that you  
11 just mentioned, what does HDMA stand  
12 for, if you know?

13 A. I think it's Healthcare  
14 Distributor Management Association or  
15 something like that.

16 Q. And that form or those forms  
17 are just distributed each time there's a  
18 new product or packaging of a new  
19 product?

20 A. If there's a significant  
21 change to an existing product with  
22 regard to storage conditions or  
23 packaging, we would in some instances  
24 supply them with a new HDMA form. Other  
25 than that, it's typically just a product

1 launch.

2 Q. So customers are generally  
3 just getting AWP communications from you  
4 with respect to new products or  
5 significant changes to existing products?

6 A. Well, any change to -- any  
7 change to AWP or WAC would be  
8 communicated to that group of customers,  
9 the wholesalers, warehousing chains and  
10 some of the direct purchasing customers.

11 Q. Are these faxed sometimes or  
12 are they sent regular U.S. mail?

13 A. They used to be faxed. I  
14 don't know if they were ever mailed.  
15 They may have been. We now send them  
16 electronically via E-mail.

17 Q. Who is responsible for issuing  
18 the HDMA forms?

19 A. Marketing department.

20 Q. And would that be your  
21 ultimate responsibility then?

22 A. There are multiple people that  
23 sign off on the information that's in  
24 the HDMA form.

25 Q. Okay. And who are those